extreme of holding that continuous and exclusive possession together with the appropriation of profits for the statutory period will raise a presumption of law that there has been an ouster. *Thomas* v. *Garvan,* 15 N. C. 223.

BAIL—DISCHARGE OF SURETY—INSANITY OF PRINCIPAL.—The plaintiffs in error were sureties on a recognizance for the appearance of a criminal. The principal did not appear, and upon a proceeding to show cause why judgment for the penalty should not be rendered against the sureties, they pleaded the insanity and confinement of the principal in another state. The state demurred. *Held,* that insanity was a good excuse for non-performance of the conditions of the recognizance and released the sureties. *Smith et al.* v. *People,* (Colo., 1919) 184 Pac. 372.

The general rule is that if the condition of the undertaking of special bail becomes impossible of performance by the act of God, or of the law, or of the obligee, the bail are thereby discharged.

The reason of the rule is well expressed in the principal case where the court said, "it is plain that the purpose of a recognizance is merely to insure the presence for trial of a person accused of a bailable offense. The enriching of the public treasury is no part of the object at which the proceeding is aimed." It is well settled law that the death of the principal will discharge the bail. *Wakefield* v. *McKinnel,* 9 La. 449; *Griffin* v. *Moore,* 2 Ga. 331; *Mather* v. *People,* 12 Ill. 9; *State* v. *Cone,* 32 Ga. 663; *Hayes* v. *Carrington,* 12 Abb. Pr. (N. Y.) 179; *Granberry* v. *Pool,* 14 N. C. 155; *Mount Pleasant Bank* v. *Pollock,* 1 Ohio 36. The principal of these cases is that it has been put out of the power of the surety to exonerate himself. So, too, in the cases of unavoidable accidents and sickness, it has been held to excuse sureties for non-appearance. *Hargis etc.* v. *Begley,* 129 Ky. 477; *Scully* v. *Kirkpatrick,* 79 Pa. St. 324; *People* v. *Manning,* 8 Cowen (N. Y.) 297; *Chase* v. *People,* 2 Col. 481. Also the arrest of the principal by military authorities has been held to excuse the surety, *Belding* v. *State,* 25 Ark. 315; *Commonwealth* v. *Webster,* 1 Bush (Ky.) 616, or where a soldier principal is in the federal army, and at such a distance as to be unable to get a furlough. *Commonwealth* v. *Terry,* 2 Duv. (Ky.) 383. But where the principal is in the army, whether voluntarily or involuntarily, within a short distance of the place, and a furlough could have been obtained, but was not requested, the sureties are not released. *Briggs* v. *Commonwealth,* (Ky., 1919) 214 S. W. 975. There are also some decisions supporting the principal case, holding that insanity of the principal, if he is confined in a state asylum, or is adjudged insane, will excuse. *Wood* v. *Commonwealth,* 17 Ky. L. Rep. 1076; *Commonwealth* v. *Fleming,* 15 Ky. L. Rep. 491; *Fuller* v. *Davis,* 1 Gray (Mass.) 612. But in *Adler* v. *State,* 35 Ark. 517, it was held that confinement in an insane asylum, in another state, would not discharge the sureties. However in view of the other acts of God that will discharge the sureties, there is no good reason on principle, why insanity should not.

BANKRUPTCY—PROVABILITY OF TORT CLAIMS.—By fraudulent representations M was induced to buy certain foreign bills of exchange drawn by a